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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,031	07/25/2003	Gopala Pillai	KMI010USU	3706
45180 7590 05/02/2007 GRIMES & BATTERSBY, LLP 488 MAIN AVENUE, THIRD FLOOR NORWALK, CT 06851			EXAMINER, WILLIAMS, JAMILA O	
			ART UNIT 3722	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/627,031

Applicant(s)

PILLAI ET AL.

Examiner

Jamila Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-17, 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to clearly show the relationship between the planar surface and the ribs, as described in the specification. In the specification page 13, the ribbed elements 36,38 comprises a plurality of ribs 40 disposed in a circular configuration about the magnetic elements 22,24, the ribs designed in corresponding configuration so as to be in frictional contact with each other when the appendage 14 is attached to the body 12, individual ribs 40 of each ribbed element 36,38 engage each other to limit movement relative to each other. The figures are not clearly showing this relationship. Looking at figure 4 for example, it does not appear that the ribs disposed about the magnet such that they would engage the corresponding location on the body. It would appear from figure 4 that if the limb and body were to mate, there would be no engagement with the ribs as disclosed. Additionally, on page 14 the ribbed elements are disclosed as being beveled or angled, as shown in figure 4, the ribbed elements in the body being beveled to be recessed within the body and the ribbed elements on the appendages are beveled so as to be raised above the planar area 32 to form a male/female attachment. However figure 4 appears to show a magnet flush with the limb and a magnet protruding from the body, the relationship of the ribs is not clearly shown. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing.

MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any

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amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: page 10 of the specification line 19, insert –tail—before "20".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,980,260 to Caputi in view of U.S. Patent No. 5,380,233 to Numoto and U.S. Patent No. 4,186,515 to Ogawa.

Caputi discloses the claimed invention except for having an arcuate shoulder ridge extending partially around the planar surfaces of the body exposing a portion of the planar surfaces having sufficient width to allow the appendages to be slid therein; a means for limiting the rotational and linear movement of the appendage relative to the body comprised of a pair of complementary ribbed elements disposed on the planar surfaces; one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body; the magnetic elements are disposed within the planar surfaces of the body and appendage; the ribs are approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm; and the planar surfaces disposed on the body all being practically identical in size and shape.

However, Ogawa teaches a toy animal (2) comprising a body (4) having an arcuate shoulder ridge (see figs.1, 4, defined by the arcuate shoulder ridge substantially perpendicular to the planar surface, that partially surrounds the front legs of the horse located just below the bores defined by reference numeral 20) extending partially around the planar surfaces of the body exposing a portion of the planar surfaces having sufficient width to allow the appendages to be slid therein (see figs.1, 4). The ridge conceals attachment of appendage to body and limit movement both rotationally and

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linearly (rotational and linear movement would be limited by the arcuate contour of the ridge of Ogawa).

Furthermore, Numoto teaches an attachment means for attaching appendages to a figure comprising an arcuate ridge (see fig. 5, defined by reference numeral 52), and that limit the rotational and linear movement of the appendage relative to the body, and is comprised of a pair of complementary ribbed elements (56), wherein one set of ribbed elements are comprised of beveled raised elements (57) and the other set of ribbed elements are comprised of beveled recessed elements (53) that engage each other when the appendage is attached to the body (see figs. 5, 6); magnetic elements (60, 63) that are disposed within the planar surfaces of the body and the elements configured to be attachable to the body (see figs. 5, 6).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toy of Caputi, in view of Numoto and Ogawa, such that it would provide the toy of Caputi with the concept of the aforementioned limitations for the purpose of providing a more lifelike appearance to the toy animal, and a stronger and more secure attachment structure for the appendages and body of the toy.

Additionally, it would have been an obvious matter of design choice to modify the size of the planar surfaces disposed on the body and the ribs to be approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the

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art. *In re Rose*, 105 USPQ 237 (CCPA 1955). It would have also been an obvious matter of design choice to make the planar surfaces disposed on the body of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Furthermore, there is no criticality for these limitations anywhere in the specification of the present invention (see pgs. 13 and 14, lines 24-26 and 1, respectively); and given that the Caputi reference, as modified, discloses all of the claimed structural limitations of the above claims, it is therefore assumed to be capable of performing all of the claimed functions of the above claims.

Response to Arguments

Applicant's arguments filed on 10-20- 2006 have been fully considered but they are not persuasive.

Regarding the argument that Ogawa fails to have planar attachment points, the examiner maintains that the attachment points for the legs are planar to the degree shown and claimed by applicant (see figures 1 and 4). Alternatively, providing planar attachments for better mating between two surfaces would have been obvious to one of ordinary skill in the art.

Additionally, Ogawa is being relied upon for the arcuate shoulder ridge extending around a planar surface not for the attachment of the appendages to the housing.

Regarding the argument that element 52 of Numoto is not an arcuate ridge, broadly speaking the peripheral surfaces of the conical bore 52 forms an arcuate ridge

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(either the upper or lower portion thereof). Yes, the examiner agrees that this ridge is not perpendicular to the planar surfaces as provided in the amended claims, however Numoto is being relied upon for the general teaching of having attachment means for attaching appendages to a figure comprising an arcuate ridge. The specifics of the ridge are met by Ogawa.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila Williams whose telephone number is 571-272-4431. The examiner can normally be reached on Monday-Thursday 6:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JW 4-25-2007


MONICA CARTER
SUPERVISORY PATENT EXAMINER